

may not be taken until such officer or employee has been employed continuously by the County for six months.

Vacation time earned by any employee and standing to employee's credit at the date of adoption of the ordinance codified in this chapter shall be continued as a credit for such purpose to the employment.

LEAVE OF ABSENCE DUE TO DEATH OR CRITICAL ILLNESS IN FAMILY. Whenever any permanent employee or officer is compelled to be absent from duty by reason of the death of employee's father, mother, brother, sister, spouse, child, grandparent, grandchild, or the mother or father of the employee's or officer's spouse, employee shall be entitled to be absent, with pay, for not more than five working days.

Whenever any permanent employee or officer is compelled to be absent from duty by reason of the critical illness of any of the above-named persons, said employee or officer shall be entitled to be absent, with pay, for not more than five working days for each such illness or condition.

The department head or appointing authority may require confirmation of such critical illness or death within thirty days after said member returns to work, and the department head or appointing authority shall consider such death or illness confirmed should the employee or officer produce any public record of such death, or any correspondence or certificate from a licensed physician attesting to such critical illness. This provision shall apply to permanent employees and to permanent part-time employees.

LEAVE OF ABSENCE WITHOUT PAY. A leave of absence without pay may be granted to any permanent employee upon the following conditions: that the employee or officer submit his/her request in writing upon a form, to be provided to the employee or officer by his/her appointing authority, and which form shall indicate clearly and concisely:

- (a) That the leave of absence is made voluntarily by the employee or officer;
- (b) That there is a date certain on which the employee shall return to work and that failure of the employee or officer to return for work on that date shall constitute cause of dismissal of said employee or officer should said employee or officer fail to utilize the procedures for extension as set forth in subdivision (d) below;
- (c) The reason for the requested leave of absence and all of the facts, events and occurrences that the employee or officer is relying upon to support his/her request;
- (d) That should the officer or employee desire an extension of the leave of absence, said officer or employee shall submit his/her request, in writing, to the authority whose approval is required pursuant to subsequent subsection. Said request shall be considered by the authority whose approval is required only in the event that:
 - (1) The request is received by the department head or appointing authority at least seven working days prior to the date scheduled for termination of the leave;

- (2) The request contains an address to which a notice of approval or denial of the extension may be sent; and
- (3) The request gives facts which would support a determination by the appointing authority or department head that the circumstances which caused the leave to be granted initially still exist.

A leave of absence without pay may be granted to any permanent employee or officer only in the event that the facts, events, and occurrences that support the request of the officer establish:

- (a) That there is an illness, injury, disability or condition of the officer or employee, or member of his/her immediate family, and that the officer or employee has insufficient sick leave accumulated to compensate for the time the officer or employee anticipates being away from his/her County employment;
- (b) That the employee or officer is to receive some training, education or experience which will materially increase the ability of said officer or employee to perform his/her duties as a County employee;
- (c) That the leave is requested for personal reasons acceptable to the authority whose approval is required.
- (d) That the leave of absence is in the best interests of the employee, the department, and mutually agreed upon.

A leave of absence requested by an officer or employee for a period not exceeding twenty working days may be granted by the department head or appointing authority.

A leave of absence requested by an officer or employee for a period in excess of twenty working days to a maximum of one year shall be processed as follows:

- (a) The request shall be submitted to the appointing authority or department head.
- (b) Upon the approval of the department head or appointing authority, the request shall be submitted to the Board of Supervisors, for consideration at the next regularly scheduled Board meeting.
- (c) The Board of Supervisors may approve the request, approve the request upon the imposition of whatever conditions the Board deems appropriate, including, but not limited to, a reduction in the period of time requested, or deny the request.
- (d) That the leave of absence is in the best interests of the employee, the department, and mutually agreed upon.

MILITARY LEAVE OF ABSENCE. All officers and employees shall be entitled to military leave of absence compensation, to return to a position with the County of Mono after termination of active service, and to return to employment with the County of Mono after resignation to enter military service, all as provided in Sections 394.5 through 395.3 of the California Military and Veterans' Code.

All officers and employees who serve with the National Guard shall qualify for unpaid leave of absence when absent to meet authorized military commitments.

JURY DUTY AND COURT APPEARANCES. All employees required to serve on a jury, criminal or civil, within the County of Mono, shall be entitled to said employee's regular County pay, provided that said employee deposits fees received

for such service, exclusive of mileage, with the County Treasurer. If said employee does not remit the jury fee, exclusive of mileage, employee shall be paid only for the time actually worked in employee's regular position.

An employee accepted for jury duty shall immediately notify his/her department head, in writing, whether or not employee waives or remits his/her jury fee to the County.

Any employee who shall be called as a witness arising out of and in the course of employee's County employment, shall be deemed to be on duty and there shall be no loss of salary, but any witness fees received by employee shall be paid forthwith to the County Auditor/Controller to be deposited in the general fund of the County, together with any mileage allowed if employee shall use County transportation. Any employee absent as a witness in a private matter shall not be entitled to be paid during such absence, excepting upon approval of the department head, earned vacation or compensating time off may be utilized.

UNAUTHORIZED ABSENCE. Any unauthorized absence from work shall be treated as leave without pay, and may be a cause for disciplinary action. An unauthorized absence for five consecutive days shall be regarded as an automatic resignation from County service.

VOLUNTARY PUBLIC SERVICE. When an employee acts as a volunteer fireman or provides similar service for the protection of life or property during regular business hours, employee shall be deemed to be on duty and there should be no loss of salary. The employee, when working as a volunteer, is not covered by Workers' Compensation with Mono County.

POLITICAL ACTIVITY. The County's rules regarding the employee's political activity shall in no way be interpreted so as to deny any employee the rights guaranteed employee by the Constitution of the United States or the State of California.

All appointed officers and employees are subject to the provisions of Sections 3201-3204.5 and 3206 of the Government Code relating to political activities. Officers and employees whose principal employment is connected with an activity which is financed in whole or in part by loans or grants made by the United States or federal agency are subject to the provisions of Sections 1501-1508, Title 5, United States Code. Employees of Mono County are further prohibited from using County work time, their own or that of other employees; County-owned and controlled property; and/or a County uniform for political activities.

ELECTIVE BOARD. All officers, and permanent and permanent part-time employees who intend to run for election to the governing board of any public entity within the County of Mono, including, but not limited to, public utility districts, fire protection districts, water districts, mosquito abatement districts, or school districts, shall, at the time of filing of such papers as may be required for declaration of candidacy to such office, advise the office of the County Counsel/Administrative Assistant of Mono County, in writing, if such person intends to maintain employment with the County of Mono in the event that such person is so elected. In the event that any such person indicates an intention to maintain County employment and serve on the governing board of any of the districts indicated above, that in that event, the office of the County Counsel/Administrative Assistant shall make a determination as to whether service in both capacities constitutes either a conflict of interest or an incompatibility of office such that said person would be precluded from maintaining both positions. Such determination shall be made within fourteen days from the date on which the office of the County Counsel/Administrative Assistant is notified of the intention of such person to maintain County employment in the event of election to the governing board of any of the special districts listed above,

and an opinion in writing shall be forwarded to such person by means of registered mail, within twenty days from the date of the first stated intention. Should the office of the County Counsel/Administrative Assistant determine that a conflict of interest or incompatibility of office exist should both positions be maintained, and should the officer or employee fail to make an election within ten days from receipt of the opinion of the County Counsel/Administrative Assistant, and at least sixty days prior to the date of the election, the County of Mono, by and through the office of the County Counsel/Administrative Assistant, may bring an action in the Superior Court of Mono County seeking an order restraining such employee from seeking the elective office.

All officers and permanent part-time employees elected to public boards or agencies, including, but not limited to, the agency and districts specified above, shall be entitled to the regular County pay while attending regularly scheduled meetings of such boards, agencies or districts during normal working hours; provided, that said employees turn over any compensation received by reason of their attendance at such meetings, if any, exclusive of mileage, to the County Treasurer.

STRIKE OR WORK STOPPAGE. No employee or employee organization, its representative or members shall cause, engage, or participate in, instigate or encourage a strike or work stoppage or any other concerted actions adverse to the County. Participation by an employee in a strike or work stoppage shall subject the employee to disciplinary action, up to and including removal from employee's position. If a recognized employee organization, its representatives, or members cause, engage in, instigate or encourage a strike or work stoppage of any kind, then, in addition to any other lawful remedies or disciplinary actions, the Board of Supervisors may, by written notice, suspend or revoke the recognition granted to such employee organization, may suspend or cancel any or all payroll deductions payable to such organization, may prohibit the use of facilities or may prohibit access to work or duty stations by such organizations.

OUTSIDE EMPLOYMENT/RESTRICTIONS. No officer or employee shall engage in any employment, activity or enterprise, for which activity, employment or enterprise said employee is compensated which is inconsistent, incompatible, in conflict with or inimical to the duties or responsibilities of said officer or employee as they relate to employment with the County of Mono, or with the duties, functions or responsibilities of employee's appointing authority or of the County, except as specifically provided herein.

OUTSIDE EMPLOYMENT/PROHIBITED WHEN. An officer's or employee's outside employment, activity or enterprise shall be prohibited if it:

- (a) Involves the use for private gain or advantage of the County's time, facilities, equipment and supplies; or the badge, uniform, prestige or influence of his/her County office or employment; or
- (b) Involves receipt or acceptance by the officer or employee of any money or other consideration from anyone other than the County for the performance of an act which the officer or employee, if not performing such act, would be required or expected to render in the regular course or hours of his/her County employment or as a part of his/her duties as a County officer or employee; or

- (c) Involves the performance of an act in other than his/her capacity as a County officer or employee which act may be subject directly or indirectly to the control, inspection, review, audit or enforcement of any other officer or employee; or
- (d) Involves such time demands as should render performance of his/her duties as an officer or employee less efficient.

OUTSIDE EMPLOYMENT/WRITTEN DISCLOSURE. Notwithstanding the provisions above, an officer's or employee's outside employment, activity or enterprise shall not be deemed inconsistent, incompatible, in conflict with or inimical to the duties of said officer or employee, if said officer or employee, prior to engaging in any such employment, activity or enterprise, makes a complete written disclosure to the department head or appointing authority of all of the functions, duties and responsibilities required of said officer or employee by such employment, activity or enterprise, and receives written consent to engage in such employment, activity or enterprise from the department head, if an employee, or the Board, if an officer.

Abuse of any of the guidelines concerning outside employment is subject to disciplinary action.

EMPLOYEE RIGHTS. Employees of the County shall have the right to form, join and participate in the activities of employee organizations of their own choosing for the purpose of representation on all matters of employee relations. Employees of the County also shall have the right to refuse to join or participate in the activities of employee organizations. It shall be an additional right of the employees to represent themselves individually in their employee relations with the County. Neither the County nor the employee organizations shall interfere with, intimidate, restrain, coerce or discriminate against employees because of the exercise of their rights under this section.

EMPLOYEE RESPONSIBILITIES. Employee responsibilities cannot be neatly pinpointed. Since the County's central responsibility is to serve the public, as an employee of Mono County you are, in many ways, obligated to everyone. Some of the major responsibilities owed to the Mono community are:

- (a) Being courteous, competent and businesslike when dealing with all people;
- (b) Beginning work on time and putting in a full day's work;
- (c) Dedication to the County and the job you are doing, always striving to improve both;
- (d) Working cooperatively with fellow employees, supervisors, and other departments;
- (e) Putting yourself in the other person's shoes;
- (f) Keeping physically and mentally healthy; and
- (g) Working safely at all times.

CHAPTER SEVEN

GRIEVANCE PROCEDURE

PURPOSE OF PROCEDURE. The purpose of the grievance procedure is to provide an employee the means to obtaining consideration of their grievance by informal means at the department head level and review of the department head's decisions without the use of legalistic forms and procedures.

The initiation in good faith of a grievance by an employee shall not be interpreted as reflecting unfavorably his/her relationship with his/her supervisors nor on employee's loyalty as a County employee, nor shall it be interpreted as reflecting unfavorably on the supervisor or superiors involved.

GRIEVANCE/DEFINITION. "Grievance" means any complaint concerning the application of any memorandum of understanding or rules or regulations governing the personnel practices or working conditions that the department management has the ability to remedy, except those matters that are within the exclusive field of management functions. This shall include, but not be limited to, a disagreement involving the work situation where an individual employee believes that an injustice has been done because of:

- (a) A deviation from a policy; or
- (b) The misinterpretation of a policy; or
- (c) The misinterpretation or misapplication of a statute, ordinance or resolution of the Board of Supervisors relating to the employment of that individual employee.

The term "grievance" shall not include salary adjustments for a class.

PERSONNEL APPEALS BOARD. When necessary, an employee with a grievance can appear before the Personnel Appeals Board. This board shall consist of three members of the Board of Supervisors of Mono County. The Clerk of the Personnel Appeals Board shall be the Clerk of the Board of Supervisors of Mono County or the duly authorized representative thereof. The members of the Personnel Appeals Board which shall constitute a hearing body on any given hearing date shall be determined by a schedule drawn up by the Clerk of the Board, and which schedule shall rotate the attendance of the members of the Personnel Appeals Board such that each member, to the extent possible, participates equally with other members as a component of the hearing body. Hearings on appeals filed by employees shall be conducted before a hearing body consisting of three members of the Personnel Appeals Board. Hearings on appeals shall be conducted commencing at the conclusion of the regular Board of Supervisors meeting, said meetings held the first four Tuesdays of each month.

GOVERNING POLICIES. The following are policies that shall govern the administration of the grievance procedure described below:

- (a) Except where a remedy is otherwise provided for by state law, the Mono County Code, or these rules, any employee shall have the right to present a grievance arising from employee's employment with the County of Mono in accordance with the provisions for grievance procedure outlined in the following section.

- (b) All parties so involved must act in good faith and strive for objectivity, while endeavoring to reach a solution at the earliest possible step of the procedure. The aggrieved employee shall have the assurance that the filing of a grievance will not result in a reprisal of any nature.
- (c) The aggrieved employee shall have the right to be represented or accompanied by a person of the employee's choice if the grievance is not resolved at the informal level as provided for in Step 1 of the grievance procedure described in Section 2.68.309 of the Mono County Code. This representation may commence when the grievance is presented in writing to the immediate supervisor as provided in Step 2 of the grievance procedure.
- (d) The processing of a grievance shall be considered as County business, and the employee and employee's representative shall have reasonable time and facilities allocated for the preparation of the employee's position with respect to the grievance alleged. The use of County time for this purpose shall not be excessive nor shall this privilege be abused.
- (e) Certain time limits in the grievance procedure are designed to quickly settle the grievance. It is realized, however, that on occasions the parties concerned may be unable to comply with the established limitations. In such instances limitations may be extended by mutual agreement of department head and the grievant.
- (f) Failure of the aggrieved employee to file an appeal within the prescribed time limit for any step of the procedure shall constitute an abandonment of the grievance. County management personnel involved in the grievance procedure shall abide by prescribed time limits.
- (g) Any person responsible for conducting any conference, meeting or hearing under the formal grievance procedure shall give due and timely notice to all persons concerned.
- (h) When two or more employees of the same department experience a common grievance, they shall initiate a single grievance proceeding. The initial hearing of the grievance shall be by the immediate supervisor, superior or department head who has the prime responsibility for all of the aggrieved employees.

GRIEVANCE/PROCEDURE

- (a) Step 1. When an employee has any grievance, or when any employee becomes aware that dissatisfaction exists with that employee's work or work situation, then that employee should discuss the matter informally with the employee's immediate supervisor. Initial discussion should be sought by the employee not later than five working days after the alleged grievance occurred or after the employee becomes aware of dissatisfaction with the employee's work or work situation. The following provisions relating to formal grievance procedures do not restrict the employee and the supervisor from seeking advice and counsel from superiors and department heads when:

- (1) Mutually consented to by the employee and the supervisor; or
 - (2) It appears that settlement can be reached at this informal level.
- (b) Step 2. If, within five working days, a mutually acceptable solution has not been reached at the informal level as provided for in Step 1 above, the employee shall submit the grievance in writing to the department head or appointing authority. At this point, the grievance hearing process becomes formal and the employee may choose to be accompanied by a representative of the employee's choice. After formal hearing with the department head or appointing authority, the department head or appointing authority will render a written decision within five working days of the date of the hearing and shall serve a copy of the written decision on the employee within ten working days from the date of the hearing. Prior to service of a copy of the written decision of the employee, the department head or appointing authority shall review the written decision with the office of the County Counsel.
- (c) Step 3. Should an employee be dissatisfied with the decision of the department head or appointing authority, said employee, within five working days of the receipt of the decision, may request that the grievance be presented to the Personnel Appeals Board for review. The Personnel Appeals Board shall schedule a hearing within ten days of the request, require the presence of the employee and department head or appointing authority at said hearing, take testimony from the employee and department head, and receive such other evidence as the Personnel Appeals Board deems essential to a proper determination, and render its written decision within five working days from the date of the hearing.
- (d) Step 4. If the decision of the Personnel Appeals Board requires Board of Supervisors' action, the recommendation from the Personnel Appeals Board to the Board of Supervisors shall be submitted for consideration at the next regularly scheduled meeting of the Board of Supervisors. The action of the Board of Supervisors shall be final and binding.

GRIEVANCE/CONFIDENTIALITY. All grievances shall be treated, to the extent possible, as matters requiring confidentiality, and all parties concerned shall strive to limit publicity and notoriety surrounding the grievance.

CHAPTER EIGHT

DISCIPLINARY ACTION

There are no rigid rules that can be adopted which will specify that degree of disciplinary action which is appropriate for a given infraction or classification of misconduct. Only the facts of the specific case can determine the action that is suitable to the employee's wrongdoing.

CAUSE FOR DISCIPLINARY ACTION. Any Mono County employee who has attained permanence in his/her classification may be disciplined by his/her department head for reasonable cause only. The following is deemed "cause" for disciplinary action taken against any employee who has attained permanent status (Handbook of Personnel Evaluation and Disciplinary Procedures):

- (1) Fraud in securing appointment which shall include, but not be limited to, misrepresentation of any material fact in any written or oral application for work with Mono County; failure to possess any license or certificate necessary to the performance of the duties and functions required by the job for which the person is applying; and failure to possess any special skill or ability that may be required by the position for which the person is applying;
- (2) Incompetence or inefficiency (herein defined to include, but not be limited to, any neglect of duty and/or failure to meet reasonable work performance standards and requirements);
- (3) Inexcusable neglect of duty;
- (4) Insubordination which is herein defined to include, but not be limited to, the refusal or willful failure or refusal to perform a particular duty, function or responsibility required by the position of employment;
- (5) Dishonesty which is defined herein to include, but not be limited to, any unauthorized possession or use of property not belonging to the employee, which unauthorized use or possession arises out of, or is in any way related to, the position of employment held by the employee;
- (6) The use or possession of alcoholic beverages while engaged in the performance of duties and/or responsibilities pursuant to employment by the County;
- (7) The use, while engaged in the performance of duties, functions or responsibilities pursuant to employment with the County, of drugs, narcotics or medications such that the performance of those duties, functions and responsibilities by the employee is impaired or such that the safety of other persons or property is impaired or adversely affected.

- (8) The possession of controlled substances as defined by the Health and Safety Code of the State, while engaged in the performance of duties, functions and responsibilities pursuant to employment with the County, such that possession constitutes a violation of the laws of the State;
- (9) Conviction of a felony or conviction of a misdemeanor involving moral turpitude. Conviction shall be defined to include a plea of nolo contendere;
- (10) Persistent, abusive or discourteous treatment of the members of the general public or fellow employees;
- (11) Political activity during working hours or in the name of the County; willful violation of any County ordinance or lawful department rule, regulation or policy;
- (12) Willful misuse of County property or damage to County property resulting from misuse or negligence; persistent failure by an employee to take treatment or corrective measures for a disqualifying physical or mental condition identified in a periodic or special medical examination;
- (13) Publication of inaccurate or false information concerning the County, its officers or employees, which is of such a nature as to bring discredit to the County or its officers and employees;
- (14) Misrepresenting oneself as a spokesman for the County in such a way as to bring discredit to the County.

CATEGORIES OF PUNITIVE DISCIPLINE. There are five general categories of punitive discipline that can be imposed:

- (1) Oral Reprimand. Oral reprimand is the least formal action. It is administered by the employee's immediate supervisor or department head. This action is not noted in the employee's file.
- (2) Written Reprimand. The written reprimand is prepared by the employee's immediate supervisor or department head and explicitly describes the problem and suggests possible solutions. A copy of the letter is filed in the employee's file.
- (3) Suspension Without Pay. Suspension, after deemed appropriate by the department head, shall be for at least one working day but not more than five working days. All appropriate information will be noted in the employee's file. All suspensions in excess of five (5) days shall automatically require Department Head consultation with County Counsel office.
- (4) Involuntary Demotion. An employee who remains in the same department or returns to a former class from which he/she has been promoted, employee shall not be required to serve a new probationary period. If the demotion results in a demotion to another department, the employee shall, upon the request of the new department head, be required to serve a new, full probationary period. When a new probationary period is not required, there will be no change in the employee's anniversary date. When a new probationary period is required, the first day in the lower position will be the employee's new anniversary date. The employee's accrued benefits will not be affected by involuntary demotion. All demotions and conditions of demotions will be recorded in the employee's confidential file.

(5) Discharge. Discharge can take all of two forms:

- (a) Emergency Discharge. An employee is temporarily ordered off his/her job without pay due to his/her job related activities or health problems that endanger employee or other individuals. Emergency discharge will be without pay and will be not less than one working day and not more than five working days.
- (b) Permanent Discharge. The employee shall be released from his/her position and will have to follow standard employment procedures to regain his/her employment with Mono County. All information regarding the employee's discharge will be documented in the employee's permanent file.

PROCEDURAL DUE PROCESS/LEGAL REQUIREMENTS

- (1) Permanent Employees. Both the California and Federal Constitutions provide that a person may not be deprived of property without due process of law. (U. S. Constitution, 5th Amendment; California Constitution, Article I, Section 7(a)).

California cases and legislation have established a statutory scheme regulating civil service employment which confers on public employees, including Mono County employees, a property interest in the continuation of their employment. This property interest has been specifically found to be protected by the constitutional right to due process. The courts have found that such an employee may not be discharged unless certain minimal procedural safeguards are observed.

The rules established in California to ensure due process in such instances require: (a) a written notice of the proposed action, (b) the reasons for such proposed action, (c) a copy of the material upon which the charges are based, (d) the right to respond, either orally or in writing, to the authority initiating the discipline, and (e) the right to a full evidentiary hearing before a neutral body within a reasonable time after the discipline is imposed. (Skelly vs. State Personnel Board, 15 Cal. 3d 194 (1974)).

Since the Skelly decision, California Courts have extended these procedural due process safeguards to demotions including disciplinary reduction in pay (Ng vs. State Personnel Board, 68 Cal. App. 3d 600 (1977)), and suspensions without pay (Civil Service Association vs. City and County of San Francisco, 22 Cal. 3d 552 (1978)).

Since neither oral nor written reprimands operate to deprive the employee of wages or status, such form of disciplinary action do not trigger the Skelly rights process. No further action is necessary other than compliance with the requirement that the employee be given a copy of the written reprimand and notified that he/she has five working days to make any signed written comments which would be attached to the document and placed in his/her official personnel file.

- (2) Probationary Employees. Generally, only employees that have attained permanent status are accorded the benefits of due process. Probationary or nontenured civil service employees may be dismissed without a hearing or judicially cognizable good cause, and such a dismissal does not deprive the employee of a vested, or property right. (Bogacki vs. Board of Supervisors, 5 Cal. 3d 771 (1971)).

The exception of this rule is when the probationary employee's job termination is based upon charges of misconduct which "stigmatize" his/her reputation and otherwise seriously impair his/her opportunity to earn a living. In these situations, the probationary employee is entitled to notice and a hearing to clear the employee's name before the termination becomes effective. (Lubey vs. City and County of San Francisco, 98 Cal. App. 3d 340 (1979)). Based upon this recent case, if a probationary employee is given any reason for his/her termination relating to job performance or conduct (e.g., inability to read, tardiness, etc.), it may "stigmatize" his/her reputation or "seriously impair" his/her ability to obtain employment within the meaning of the Lubey decision.

REQUIRED PROCEDURES. The Mono County Code established specific procedures which when followed, assure that procedural due process is afforded to the employee. Failure to follow the procedures can cause various problems, including invalidation of the disciplinary action, and potentially giving the employee a right to damages for back pay and, in certain circumstances, damages based upon injury to reputation, loss of business opportunity, and mental distress. (Barber vs. State Personnel Board, 18 Cal. 3d 395 (1976); Owen vs. City of Independence, MO., 445 U.S. 622 (1980)). The procedural steps are set forth below.

Step A. County Counsel Review. In all cases where the discipline being considered consists of discharge, suspension without pay for five or more days, demotion, or cancellation of wages for five or more days, it is mandatory for the department head to first review the proposed action with the County Counsel. Where the proposed disciplinary action is less serious, such review is permissive in the discretion of the department head. Whenever there is any doubt, the review and consultation is highly recommended.

Step B. Notice of Intended Action. All disciplinary action except oral or written reprimands must be commenced by the preparation of a written notice of proposed action, which must contain the name of the employee to be disciplined, a description of the action proposed to be taken and the effective date thereof, a clear and concise statement of the reasons for which the proposed action is to be taken, including a statement of the acts and omissions giving rise thereto, a statement that a copy of all materials upon which the proposed action is based are attached to the Notice, and a statement of the employee's right to respond. Exhibit "G" is the form approved for use by all departments within the County as the Notice of Proposed Disciplinary Action.

Step C. Employee's Response - Skelly Hearing. The employee must be allowed an opportunity to respond, either orally or in writing to the Notice of Proposed Action, and the period therefor set by Code provision is five working days after receipt of the Notice. Upon request of the employee, a specific time should be scheduled for an informal administrative hearing for the employee to present a response to the person (department head) who has the authority to take action. The employee is entitled to be represented at this meeting. The approved form for this use is the Notice of Informal Administrative Hearing, attached as Exhibit "H".

Step D. Notice of Final Action. Once the response period has expired, and after the department head has thoroughly investigated and considered the employee's responses to the charges, and has documented these good faith efforts by written memorandum to the file, the department head may then file a Notice of Final Disciplinary Action. (see Exhibit "I")

DISCIPLINARY APPEALS. A disciplinary appeal hearing before the Personnel Appeals Board affords the employee with a trial-like evidentiary hearing before a neutral body as required by the Skelly decision and its progeny.

At such a hearing, the burden of proof is upon the department head to show the propriety of the disciplinary action taken. Both the department head and the employee have the right to legal counsel, the right to subpoena witnesses, and the right to cross-examination.

An employee deserving to appeal a disciplinary action shall file with the Clerk of the Personnel Appeals Board an answer admitting or denying, in whole or in part, the allegations of the Notice of Final Action. Matters not admitted by the filed answer shall be deemed denied. Such answer must be filed within ten days of receipt of such order by the appealing employee.

Within twenty working days after the date on which the answer is filed with the Clerk of the Personnel Appeals Board, the hearing body shall conduct a hearing to determine whether the final disciplinary order shall be sustained. Within five working days, notification of exact date of hearing shall be conducted in the Board Room in the County Courthouse, Bridgeport, County of Mono. The hearing body may conduct such hearing at a different location when, given the convenience of parties and witnesses, such different location promotes the convenience of such parties or witnesses and/or the ends of justice.

The chairman of the hearing body, to be designated by schedule, and the office of the County Counsel of Mono County shall have the power to issue subpoenas for the purpose of compelling the attendance of witnesses, and either the chairman of the hearing body or the County Counsel shall issue a subpoena for the purpose of compelling the attendance of any witness requested by the appointing authority or the employee.

All oral testimony received by the hearing body shall be recorded in some appropriate form.

Hearings shall be private and all persons excluded therefrom, except the appointing authority or department head, the employee, the attorneys involved, the reporter, if any, the Clerk of the Board and witnesses actually testifying, unless the employee files a written request for public hearing with the Clerk of the Personnel Appeals Board at least five working days prior to the date of the hearing.

The appointing authority or department head, and the employee shall have the right to be represented by legal counsel, and the appointing authority or department head shall be represented by the office of the County Counsel of Mono County unless the office of the County Counsel is a party to, or a witness testifying in the matter before the hearing body. The appointing authority or department head shall presents its evidence first. The employee may then present evidence and each shall then have the right to present evidence in rebuttal.

Any evidence may be received that is relevant and material to the disciplinary action and the hearing body shall not be bound by the formal rules of evidence as set forth in the Evidence Code of the state.

At the conclusion of the hearing, the Board may either:

- (1) Sustain the final disciplinary order;
- (2) Modify the order in whole or in part; or
- (3) Order reinstatement of the employee.

The action of the Board will be effective retroactively to the date of service of the Notice of Final Disciplinary Action upon the employee.

RECORD OF DISCIPLINARY ACTION. The employee's file will reflect all disciplinary actions.

COUNTY OF MONO ORGANIZATION CHART

